

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2014-346-WS

IN RE: Application of Daufuskie Island Utility)	ORS RESPONSE
Company, Incorporated for Approval of)	TO DIUC
an Increase for Water and Sewer Rates,)	MOTION FOR ORDER
Terms and Conditions)	REGARDING BONDS

The South Carolina Office of Regulatory Staff (“ORS”) respectfully submits this response pursuant to S.C. Code Ann. Regs. 103-829 (2012) to the Daufuskie Island Utility Company, Inc. (“DIUC” or the “Company”) Motion for Order Regarding Bonds filed on March 7, 2018. ORS asserts that the Public Service Commission (“Commission”) of South Carolina should deny the Company’s Motion because the case has not yet been finally disposed and underlying transactions, which may depend upon the Bond, are unsettled.

Pursuant to S.C. Code Ann. § 58-5-240, a utility “may put rates requested in its scheduled into effect under bond only during the appeal and until final disposition of the case.” According to the Commission Order that approved DIUC’s bond, “...if [the Commission’s] Order denying in part the proposed rate relief is upheld on appeal, the utility will be required to refund the additional funds collected during the pendency of appeal with interest accrued at the rate of twelve percent per annum.”¹ Furthermore, previous Commission orders have held that once the issue of refunded rates was fully resolved *then* the bonded utilities had authorization to cancel bonds.² Finally,

¹ See Commission Order No. 2016-156.

² See Docket No. 2006-92-WS, Commission Order No. 2008-855, “Further, the revenues received by CWS from the increased rates placed into effect under bond pursuant to S.C. Code Ann. § 58-5-240(D) (Supp.2006) and Order No. 2007-230 do not exceed the revenues authorized by the Commission herein and CWS is therefore not required to issue a refund pursuant to S.C. Code Ann. § 58-5-240(D). Accordingly, CWS is released from its obligation to

DIUC's Petition for Approval of Bond Pursuant to S.C. Code Ann. § 58-5-240 stated "[t]he proposed bond amount is reasonable because it provides more than ample protection for any potential repayments(s)."³

According to Commission Directive issued on December 20, 2017, in the above docket, ORS should verify that the rates are consistent with the Commission Order.⁴ Additionally, the Directive required the Company to "issue refunds, pursuant to S.C. Code Ann. § 58-5-240, consisting of the difference between the amount allowed by this Order and the full amount originally requested by the Company, along with 12% interest."⁵

On January 31, 2018, the Commission issued Order No. 2018-68, in which the Commission reiterated the points contained in the previously issued Directive and discussed above.

On February 20, 2018, the Company filed a Petition for Reconsideration of Commission Order No. 2018-68 ("Petition"). Pursuant to S.C. Code Ann. § 58-5-330, the Commission has 30 days to rule on the Company's Petition. Subsequent to the Commission's ruling, the Company may appeal the Commission's Order.

According to DIUC, the bonding Company only issued DIUC the second bond because it obtained a letter of credit from SunTrust, which only issued DIUC the letter of credit if it was secured by Mr. Lee's personal funds.

maintain the bond and is authorized to cancel the bond. Moreover, the surety shall be released from any and all liability in this matter." *See Also* Docket No. 2007-286-WS, Commission Order No. 2013-77, "Because the rates approved hereby as reflected in Appendix A to this order are the same as those placed into effect under bond by the Company in accordance with our Order No. 2008-269 in this docket, no refund is required. *Cf.* S.C. Code Ann. § 58-5-240(D) (Supp. 2012). Accordingly, we also hereby approve the Company's cancellation of Surety Bond No. 105073455 filed May 5, 2008, and authorize USSC to notify the underlying carrier of its cancellation pursuant to this Order."

³ *See* DIUC's Petition for Approval filed on January 20, 2016, Docket Management System ID number 262565.

⁴ The Commission issued Order No. 2018-68 on January 31, 2018. This Order details the rates to be charged by DIUC and reiterates the requirement set forth by the Directive that ORS shall verify that the rates charged by DIUC are consistent with the provisions of that Order.

⁵ Commission Order 2018-68 also requires this.

The Company has filed its Petition, and preserved its right to appeal to the South Carolina Supreme Court; therefore, the rates ordered by Commission Order No. 2018-68 are not settled, and not all refund issues have been fully resolved.

Also, due to the unsettled nature of the rates that DIUC will charge, ORS has not completed its review to ensure that the Company is complying with the Commission's Order and that all refunds have been properly issued. However, the limited review ORS has conducted has raised questions regarding the amounts refunded, the status of refunds to former customers of DIUC, and the methodology used to calculate those amounts. Therefore, the issuance of refunds is not settled, and issuing an order authorizing the surety to release the letter of credit would place ratepayers at risk.

For the above reasons, ORS asks that the Commission deny the Company's Motion.



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 Columbia, South Carolina